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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,725	01/27/2000	Robert G. Arsenault	PD-980142	1296

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EXAMINER

JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/492,725

Applicant(s)

ARSENAULT ET AL.

Examiner

Jean D Janvier

Art Unit

3622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 18-47.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: See Continuation Sheet

ERIC W. STAMBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that Hite does support the use of advertisement objects and linked images and that associating advertisement objects with linked image objects is not inherent in the art. In fact, the Examiner had already provided an answer to the above arguments in the last office action on the merits, as shown below-

In response to Applicant's argument that Hite "fails to disclose a system or method that uses advertisement objects and linked image objects, as recited in claims 18 and 24". However, the Examiner respectfully and completely disagrees with the Applicant's findings. In fact, the latter limitations are implicitly or inherently supported by the Hite's reference, as understood by those skilled in the art. In general, Hite discloses a system to display advertisements, stored on a set top box, on a viewer's unit or TV screen based on the viewer's profile when a break occurs during the broadcast of a TV show or a programming. The displayed advertisements comprising text and/or audio and/or video (image objects or graphical representation) formats as inherently practiced in the television industry and known to those skilled in the art. Additionally, advertisements are commonly associated with objects, such as graphical images, stored on computer readable media as a file within a directory (See abstract; col. 3: 16 to col. 8: 43). Failure of those skilled in the art to contemporaneously recognize an inherent property, function or ingredient of a prior art does not preclude a finding of anticipation (MPEP 2131.01 (III)).

Finally, linking an advertisement object to an image object is a matter of design choice, design consideration, which does not directly impact the functionality of the system. Furthermore, this linkage takes place in the background and it is transparent to the viewer, who sees an advertisement comprising text, audio, video (graphics, objects, images) displayed on his TV monitor based on his profile and/or the type of programming or show being watched.

Continuation of 10. Other: Entering the amendment at Appeal would remove the rejection of claim 41 under 35 U.S.C. 112(2) as set forth in the final office action on the merits..